



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2018-0154]

RIN 1625-AA08

Special Local Regulation; USS PORTLAND Commissioning, Portland, OR

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary regulated area for certain waters of the Willamette River. This action is necessary to provide for the safety of life on these navigable waters near Port of Portland Terminal 2, Portland, OR, during a naval vessel commissioning ceremony on April 14 through 23, 2018. This regulation prohibits persons and vessels from being in the regulated area unless authorized by the Captain of the Port Columbia River or a designated representative.

DATES: This rule is effective from 12:01 a.m. to 11:59 p.m. on April 23, 2018. For the purposes of enforcement, actual notice will be used from 11:59 p.m. on April 14, 2018, until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG-2018-0154 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email LCDR Laura Springer, MSU Portland Waterways; telephone 503-240-9319, email msupdxwwm@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

From April 14 through 23, 2018, the U.S. Navy will be conducting ceremonial activities for the commissioning of the USS PORTLAND. The commissioning activities will take place at the Port of Portland Terminal 2.

In response, on March 21, 2018, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Special Local Regulation; USS PORTLAND Commissioning, Portland, OR” (83 FR 12303). There we proposed to establish a regulated area extending approximately 500 yards on each side of the naval vessel on the Willamette River in Portland, OR during the commissioning ceremonies and invited comments on our proposed regulatory action related to this event. During the comment period that ended April 5, 2018, we received 3 comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable because it needs to be effective starting April 14, 2018 to ensure the safety of vessels and the navigable waters within the regulated area during the

ceremonial activities and to prevent any disruption to the commissioning ceremonies.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1233. The Captain of the Port Sector Columbia River (COTP) has determined that to provide for the safety of participants, spectators, support and transiting vessels, it is necessary to temporarily restrict vessel traffic from April 14 through 23, 2018. The purpose of this rule is to ensure the safety of vessels and the navigable waters within the regulated area, during, and after the scheduled event and to prevent any disruption to the commissioning ceremonies.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received three comments on our NPRM published March 21, 2018 (83 FR 12303). The first comment was in support of the regulated area. The second comment was from a yacht club requesting clarification for transiting the regulated area. Vessels desiring to transit the regulated area will be able with approval from the patrol commander. This issue was addressed in the published proposed regulatory text. Procedures for transiting the area will also be published in the Local Notice to Mariners. The third comment was beyond the scope of this rulemaking. We made no changes in the regulatory text from what we proposed in the NPRM.

This rule establishes a regulated area from 11:59 p.m. on April 14, 2018, to 11:59 p.m. on April 23, 2018. The regulated area will cover navigable waters at Port of Portland Terminal 2 on the Willamette River. Specifically, the navigable waters bounded by the following points: 45° 33.34' N, 122° 42.34' W; 45° 33.12' N, 122° 42.51' W; 45° 32.71' N, 122° 41.37' W; and 45° 32.58' N, 122° 41.54' W. The duration of the regulated area is intended to ensure the safety of vessels, bystanders, and the navigable waters and to prevent any disruption of the events associated with the commissioning ceremony of the USS PORTLAND. The Coast Guard, at its

discretion, would allow the passage of affected vessels. But no vessel or person will be permitted to enter the regulated area without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the size, location, and duration of the regulated area. Although this proposal would prevent traffic from transiting portions of the Willamette River, the effect of this regulation would not be significant due to the limited duration that the regulated area would be in effect and would allow waterway users to enter or transit through the area when deemed safe by the on-scene patrol commander. Moreover, the Coast Guard would issue a Broadcast Notice to Mariners via VHF-FM marine channel 16 and publish information in the Local Notice to Mariners about the regulated area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the FOR FURTHER INFORMATION CONTACT section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule

elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969(42 U.S.C. 4321-4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a regulated area lasting less than 10 days that would limit entry within approximately 500 yards of the USS PORTLAND. It is categorically excluded from further review under paragraph L61 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 01. A Memorandum for Record supporting this determination is available in the docket where indicated under ADDRESSES.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements,
Waterways

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 33 CFR 1.05-1.

2. Add § 100.T13-0154 to read as follows:

**§ 100.T13-0154 Special Local Regulations; USS PORTLAND Commissioning, Portland,
OR.**

(a) *Regulated area.* The following area is designated as a regulated area: All navigable waters of the Willamette River within 500 yards of the USS PORTLAND while moored at the Port of Portland Terminal 2, specifically the navigable waters bounded by the following points: 45° 33.34' N, 122° 42.34' W; 45° 33.12' N, 122° 42.51' W; 45° 32.71' N, 122° 41.37' W; and 45° 32.58' N, 122° 41.54' W.

(b) *Special local regulations.* (1) The Coast Guard may patrol the regulated area under the direction of a designated Coast Guard Patrol Commander (PATCOM). PATCOM may be contacted on Channel 16 VHF-FM (156.8 MHz) by the call sign "PATCOM." Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the Captain of the Port, Sector Columbia River.

(2) Entrance into the regulated area is prohibited unless authorized by the PATCOM. The PATCOM may control the movement of all vessels in the regulated area. When hailed or signaled to stop by an official patrol vessel, a vessel must come to an immediate stop and comply with the lawful directions issued. Failure to comply with a lawful direction may result in expulsion from the area, citation for failure to comply, or both.

(3) All vessels permitted to transit the regulated area must maintain a separation of at least 100 yards away from the USS PORTLAND.

(c) *Enforcement period.* This regulated area is subject to enforcement from 11:59 p.m. on April 14, 2018 to 11:59 p.m. on April 23, 2018.

Dated: April 11, 2018.

D. G. Throop,

Rear Admiral, U.S. Coast Guard,

Commander, Thirteenth Coast Guard District.

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